

In the United States Court of Appeals
for the Eleventh Circuit

UNITED STATES OF AMERICA,
Plaintiff-Appellant,

v.

WALTINE NAUTA and CARLOS DE
OLIVEIRA
Defendants-Appellees.

On Appeal from the United States District Court for the
Southern District of Florida, No. 23 Cr. 80101 (Cannon, J.)

**MOTION FOR LEAVE TO FILE BRIEF OF PRESIDENT
DONALD J. TRUMP AS *AMICUS CURIAE***

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CERTIFICATE OF INTERESTED PERSONS

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 and 26.1-2, the undersigned counsel hereby certifies that the following is a list of persons and entities who have an interest in the outcome of this case:

1. Advance Publications, Inc.
2. Alonso, Cristina
3. America First Legal Foundation
4. America First Policy Institute
5. American Broadcasting Companies, Inc., d/b/a ABC News
6. American Center for Law and Justice
7. America's Future
8. Ayer, Donald
9. Bailey, Andrew
10. Bell, Daniel
11. Berry, Michael
12. Bird, Brenna
13. Blackman, Joshua
14. Blanche, Todd
15. Bloomberg, L.P.

16. Bondi, Pamela J.
17. Boos, Michael
18. Bove, Emil
19. Bowman, Chad
20. Bratt, Jay
21. Cable News Network, Inc.
22. Calabresi, Steven
23. Caldera, Louis
24. Cannon, Hon. Aileen
25. Cate, Matthew
26. CBS Broadcasting, Inc. o/b/o CBS News
27. Citizens for Responsibility and Ethics in Washington
28. Citizens United
29. Citizens United Foundation
30. CMG Media Corporation
31. Coleman, Russell
32. Coleman, Tom
33. Commonwealth of Kentucky
34. Conservative Legal Defense and Education Fund
35. Conway, George

36. Cooney, J.P.
37. Couzo, Amber Aurora
38. Cox Enterprises, Inc. (COX) d/b/a The Atlanta Journal-Constitution
39. Cynkar, Robert J.
40. Dadan, Sasha
41. De Oliveira, Carlos
42. Dow Jones & Company, Inc., publisher of The Wall Street Journal
43. Dreeben, Michael
44. Drummond, Gentner
45. Edelstein, Julie
46. Ekonomou, Andrew J.
47. Fields, Lazaro
48. Fitch, Lynn
49. Fitzgerald, Patrick
50. Forrester, Nathan
51. Fort Myers Broadcasting Company
52. Freeman, Mark R.
53. Fugate, Rachel Elise
54. Garland, Merrick B.

55. Gerson, Stuart
56. Gertner, Nancy
57. Gilbert, Karen E.
58. Gillers, Stephen
59. Goodman, Hon. Jonathan
60. Gray Media Group, Inc. (GTN)
61. Griffin, Tim
62. Guardian News & Media Limited
63. Gun Owners Foundation
64. Gun Owners of America
65. Gun Owners of California
66. Harbach, David
67. Heigis, Eric
68. Henneke, Robert
69. Hilgers, Michael T.
70. Hirsch, Steven A.
71. Hulser, Raymond
72. Insider, Inc.
73. Irving, John
74. Jackley, Marty J.

75. Jorjani, Daniel H.
76. Kise, Christopher
77. Klugh, Richard C.
78. Klukowski, Kenneth A.
79. Knudsen, Austin
80. Kobach, Kris
81. Kozinski, Alex
82. Labrador, Raúl R.
83. Lacovara, Philip Allen
84. Landmark Legal Foundation
85. Lapointe, Markenzy
86. Lawson, Gary
87. Li, XiXi
88. Los Angeles Times Communications LLC, publisher of The Los Angeles Times
89. Marshall, Steve
90. Maynard, Hon. Shaniek Mills
91. McElroy, Dana Jane
92. McKay, John
93. McNamara, Anne

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94. McSweeney, Patrick M.
95. Meese, Edwin
96. Miller, Justin A.
97. Miller, Matthew
98. Mishkin, Maxwell
99. Moelker, Nathan J.
100. Monson, Darrick
101. Moody, Ashley
102. Morgan, Jeremiah L.
103. Morrisey, Patrick
104. Mukasey, Hon. Michael B.
105. Murrell, Larry Donald
106. Murrill, Liz
107. National Cable Satellite Corporation d/b/a C-SPAN
108. National Public Radio, Inc.
109. Nauta, Waltine
110. NBCUniversal Media, LLC d/b/a NBC News, a subsidiary of Comcast Corporation (CMCSA)
111. Nielson, Aaron L.
112. Olson, William J.

113. One Nation Under God Foundation
114. Orlando Sentinel Media Group, publisher of the Orlando Sentinel
115. Paxton, Ken
116. Pearce, James
117. Pellettieri, John
118. Pettit, Lanora C.
119. POLITICO LLC
120. Potter, Trevor
121. Public Advocate of the United States
122. Radio Television Digital News Association
123. Raskin, David
124. Raul, Alan Charles
125. Ray, Robert W.
126. Reeder, L. Martin Jr.
127. Reinhart, Hon. Bruce E.
128. Reuters News & Media, Inc.
129. Reyes, Sean
130. Reynolds, Brett
131. Rokita, Theodore E.

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- 132. Roth, Stuart J.
- 133. Russell, Lauren
- 134. Salario, Samuel
- 135. Sample, James J.
- 136. Sasso, Michael
- 137. Schaerr, Gene C.
- 138. Sekulow, Jay Alan
- 139. Sekulow, Jordan
- 140. Seligman, Matthew A.
- 141. Sisney, Benjamin P.
- 142. Skrmetti, Jonathan
- 143. Smith, Abbe
- 144. Smith, Fern
- 145. Smith, Jack
- 146. State Democracy Defenders Action
- 147. State of Alabama
- 148. State of Alaska
- 149. State of Arkansas
- 150. State of Florida
- 151. State of Idaho

152. State of Indiana
153. State of Iowa
154. State of Kansas
155. State of Louisiana
156. State of Mississippi
157. State of Missouri
158. State of Montana
159. State of Nebraska
160. State of Oklahoma
161. State of South Carolina
162. State of South Dakota
163. State of Tennessee
164. State of Texas
165. State of Utah
166. State of West Virginia
167. Steinmann, Jessica Hart
168. Sun-Sentinel Company, LLC, publisher of the South Florida Sun Sentinel
169. Taylor, Treg
170. TEGNA, Inc. (TGNA)

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171. Telemundo Network Group, LLC d/b/a Noticias Telemundo
172. Texas Public Policy Foundation
173. Thakur, Michael
174. The Associated Press
175. The E.W. Scripps Company (SSP)
176. The McClatchy Company, LLC (MNI) d/b/a the Miami Herald
177. The New York Times Company (NYT)
178. The Palm Beach Post and USA TODAY, publications operated by subsidiaries of Gannett Co., Inc. (GCI)
179. Thompson, Larry
180. Tillman, Seth Barrett
181. Tobin, Charles
182. Torres, Hon. Edwin
183. Trent, Edward H.
184. Tribe, Laurence
185. Troye, Olivia
186. Trump, President Donald J.
187. Trusty, James
188. Twardy, Stanley
189. United States of America

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190. Univision Networks & Studios, Inc.
191. U.S. Constitutional Rights Legal Defense Fund
192. VanDevender, Cecil
193. Webster, Brent
194. Weiss, Stephen
195. Weld, William
196. Weldon, Chance
197. Wessan, Eric H.
198. Wharton, Kendra
199. Whitaker, Henry C.
200. Whitaker, Matthew
201. Whitman, Christine Todd
202. Wilson, Alan
203. Woodward, Stanley
204. WP Company LLC d/b/a The Washington Post
205. WPLG, Inc.

Dated: January 8, 2025

/s/ Kendra L. Wharton
Kendra L. Wharton

ARGUMENT

President Trump seeks leave, pursuant to Federal Rule of Appellate Procedure 29(a)(2) to participate as *amicus curiae* and respectfully requests that the Court file the attached brief.

First, President Trump has an interest in this proceeding. FED. R. APP. P. 29(a)(3)(A). He is a subject of the Final Report. He is also the President-elect and soon-to-be 47th President of the United States. He thus has an interest in a smooth, orderly transition and in the effective vesting of executive power that publication of the Final Report threatens.

Second, the “brief is desirable . . . and relevant to the disposition of the” motion. FED. R. APP. P. 29(a)(3)(B). As the President-elect, President Trump provides a unique insight into the effect the Final Report will have on the transition and why it is contrary to the Presidential Transition Act and the Executive Vesting Clause. Indeed, his presentation of these issues ensures “sharp adversarial presentation of the issues” and thus “satisfies . . . prudential concerns that otherwise might counsel against” addressing them. *United States v. Windsor*, 570 U.S. 744, 761 (2013); *see Opp’n* 15 (attacking Defendants’ standing to raise the issue as “[t]hey are not personally affected by the Presidential

Transition Act”). Furthermore, as a former President and the future President, President Trump has a unique perspective on the Appointments Clause and Appropriations Clause issues. Both clauses affect the President. President Trump’s view that Smith is unconstitutionally appointed and funded thus has special weight as they provide the views of a former and future head of the Executive Branch on constitutional limits on his authority.

For these reasons, President Trump’s *amicus* brief “will assist the judges by presenting ideas, arguments, theories, [and] insights . . . that are not found in the briefs of the parties.” *Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 976 F.3d 761, 763 (7th Cir. 2020) (cleaned up) (quoting the Seventh Circuit’s *Practitioner’s Handbook for Appeals*). It is appropriate to grant him leave to file it.

CONCLUSION

For those reasons, President Trump respectfully requests that the Court grant him leave to participate as *amicus curiae* and file the attached brief.

Dated: January 8, 2025

Respectfully submitted:

/s/ Todd Blanche / Emil Bove

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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,
TYPEFACE REQUIREMENTS, AND TYPE-STYLE
REQUIREMENTS**

Counsel for President Donald J. Trump hereby certifies pursuant to Federal Rules of Appellate Procedure 27(d), 32(a), and 32(g) that this motion is proportionately spaced, has a typeface of 14 points, and contains 355 words, excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f).

Dated: January 8, 2025

/s/ Kendra L. Wharton
Kendra L. Wharton

CERTIFICATE OF SERVICE

Counsel for President Donald J. Trump hereby certifies that on January 8, 2025, the foregoing motion was filed with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit using the Court's electronic filing system. Counsel further certifies that all participants in the case are represented by counsel registered with the electronic filing system and that service will be accomplished by that system.

Dated: January 8, 2025

/s/ Kendra L. Wharton
Kendra L. Wharton